

Department of Energy

§ 1021.330

§ 1021.320 Environmental assessments.

DOE shall prepare and circulate EAs and related FONSIIs in accordance with the requirements of the CEQ Regulations, as supplemented by this subpart.

§ 1021.321 Requirements for environmental assessments.

(a) *When to prepare an EA.* As required by 40 CFR 1501.4(b), DOE shall prepare an EA for a proposed DOE action that is described in the classes of actions listed in appendix C to subpart D of this part, and for a proposed DOE action that is not described in any of the classes of actions listed in appendices A, B, or D to subpart D, except that an EA is not required if DOE has decided to prepare an EIS. DOE may prepare an EA on any action at any time in order to assist agency planning and decisionmaking.

(b) *Purposes.* A DOE EA shall serve the purposes identified in 40 CFR 1508.9(a), which include providing sufficient evidence and analysis for determining whether to prepare an EIS or to issue a FONSI. If appropriate, a DOE EA shall also include any floodplain/wetlands assessment prepared under 10 CFR part 1022 and may include analyses needed for other environmental determinations.

(c) *Content.* A DOE EA shall comply with the requirements found at 40 CFR 1508.9. In addition to any other alternatives, DOE shall assess the no action alternative in an EA, even when the proposed action is specifically required by legislation or a court order.

§ 1021.322 Findings of no significant impact.

(a) DOE shall prepare a FONSI only if the related EA supports the finding that the proposed action will not have a significant effect on the human environment. If a required DOE EA does not support a FONSI, DOE shall prepare an EIS and issue a ROD before taking action on the proposal addressed by the EA, except as permitted under 40 CFR 1506.1 and § 1021.211 of this part.

(b) In addition to the requirements found at 40 CFR 1508.13, a DOE FONSI shall include the following:

(1) Any commitments to mitigations that are essential to render the im-

pacts of the proposed action not significant, beyond those mitigations that are integral elements of the proposed action, and a reference to the Mitigation Action Plan prepared under § 1021.331 of this part;

(2) Any "Statement of Findings" required by 10 CFR part 1022, "Compliance with Floodplain/Wetlands Environmental Review Requirements";

(3) The date of issuance; and

(4) The signature of the DOE approving official.

(c) DOE shall make FONSIIs available to the public as provided at 40 CFR 1501.4(e)(1) and 1506.6; DOE shall make copies available for inspection in the appropriate DOE public reading room(s) or other appropriate location(s) for a reasonable time.

(d) DOE shall issue a proposed FONSI for public review and comment before making a final determination on the FONSI if required by 40 CFR 1501.4(e)(2); DOE may issue a proposed FONSI for public review and comment in other situations as well.

(e) Upon issuance of the FONSI, DOE may proceed with the proposed action subject to any mitigation commitments expressed in the FONSI that are essential to render the impacts of the proposed action not significant.

(f) DOE may revise a FONSI at any time, so long as the revision is supported by an existing EA. A revised FONSI is subject to all provisions of paragraph (d) of this section.

[57 FR 15144, Apr. 24, 1992, as amended at 61 FR 36239, July 9, 1996]

§ 1021.330 Programmatic (including site-wide) NEPA documents.

(a) When required to support a DOE programmatic decision (40 CFR 1508.18(b)(3)), DOE shall prepare a programmatic EIS or EA (40 CFR 1502.4). DOE may also prepare a programmatic EIS or EA at any time to further the purposes of NEPA.

(b) A DOE programmatic NEPA document shall be prepared, issued, and circulated in accordance with the requirements for any other NEPA document, as established by the CEQ Regulations and this part.

(c) As a matter of policy when not otherwise required, DOE shall prepare